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2d Session

SENATE

REPORT
98-574

AMENDING THE WILD AND SCENIC RIVERS ACT TO PERMIT THE CONTROL OF LAMPREY EEL IN THE PERE MARQUETTE RIVER AND TO DESIGNATE A PORTION OF THE AU SABLE RIVER, MICHIGAN

AUGUST 3 (Legislative day, JULY 30), 1984.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2732]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2732) to amend the Wild and Scenic Rivers Act to permit the control of the lamprey eel in the Pere Marquette River and to designate a portion of the Au Sable River, Michigan, as a component of the National Wild and Scenic Rivers System, having considered the same, reports favorably thereon without amendment, and recommends that the bill do pass.

PURPOSE

The purposes of S. 2732 as reported are to authorize construction and operation of a low-head weir across the Pere Marquette River (a unit of the National Wild and Scenic Rivers System) to block the spawning migration of lamprey eel; and to designate 23 miles of the Au Sable River in Michigan, for inclusion in the National Wild and Scenic Rivers System.

BACKGROUND

The Wild and Scenic Rivers Act implemented a system by which rivers of notable scenic, natural or recreational values would be preserved and protected from development so as to be enjoyed in their pristine state by future generations. These rivers are normally designated by Congress and are subsequently protected by the administrative agency which has jurisdiction over the corridor. To preserve the free flowing condition of the rivers within the system, any activity or structure which would interrupt this flow is prohibited.

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A section of the Pere Scenic River System on November 10, 1978 (Public Law 95-625, 92 Stat. 3521).

The U.S. Fish and Wildlife Service has identified the Pere Marquette River as one of the largest habitats of the lamprey eel of any stream flowing into Lake Michigan. The lamprey is a predatory fish that is destroying the game and commerical fish in the Great Lakes. Effective lamprey controls are essential to prevent the loss of the million dollar fishing industry in Lake Michigan.

Since 1958, the Pere Marquette has been treated every 4 years with chemicals to control the eels, but this treatment is harmful to other forms of aquatic life in the Pere Marquette, and it is also expensive.

The Michigan Department of Natural Resources and the Forest Service have determined that the best alternative to control the lamprey would be to construct a small dam that would block passage of the eels to their spawning grounds. The dam would be constructed with a gap in the middle, large enough to allow a canoe to pass through, and would allow the river to flow freely for 10 months out of the year. The gap would be closed during the spawning run, thus blocking passage of the eel. In addition, the barrier would be built in an area where a minimum amount of water would be impounded. S. 2732 authorizes the construction of such a structure on the Pere Marquette.

S. 2732 would also amend the Wild and Scenic Rivers Act to designate a 23 mile segment of the Au Sable Rive in Michigan for inclusion into the National Wild and Scenic Rivers System.

The river possesses unique and irreplaceable natural, scenic and recreational values which qualify it for Wild and Scenic River protection. The recommended river corridor is located on the Huron National Forest between Alcona Pond and Mio. It includes 6,210 acres, of which 600 acres are private ownership, 800 acres are State of Michigan lands, and the remainder are public owned and administered as part of the National Forest System.

This is an outstanding recreational and fishing river and the proposal in S. 2732 represents a compromise between Forest Service recommendations and landowner concerns.

Legislative History

S. 2732 was introduced by Mr. Levin, for himself and Mr. Riegle on June 6, 1984. Hearings have not been held on S. 2732. However, a hearing on S. 1084, which includes provisions to designate the Au Sable River and to permit construction of the eel weir on the Pere Marquette River, was held before the Subcommittee on Public Lands and Reserved Water on March 6, 1984. The Administration, in testimony, supports designation of the Au Sable River and construction of the weir on the Pere Marquette Wild and Scenic River.

At a business meeting on August 1, 1984, the Senate Committee on Energy and Natural Resources ordered S. 2732, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on August 1, 1984, by unanimous vote of a

quorum present recommends that the Senate pass S. 2732, as described herein.

Section-by-Section Analysis

Section 1, as reported, would amend the Wild and Scenic Rivers Act by adding a provision at the end of paragraph 3(a)(16), which designates a segment of the Pere Marquette River as a component of the National Wild and Scenic Rivers System, to permit the installation and operation of facilities and other activities on the Pere marquette River to control the population of lamprey eel. Any weir or other facility to serve this purpose would be located, constructed and operated subject to such restrictions and conditions as may be prescribed by the Secretary of Agriculture to protect the integrity of the wild river.

Section 2 would amend subsection 3(a) of the Wild and Scenic Rivers Act by adding paragraph (51) to designate a segment of the Au Sable River in Michigan as a component of the National Wild and Scenic Rivers System. The designated segment would be approximately 23 miles in length, running from Mio Pond downstream to Alcona Pond.

The river possesses unique and irreplaceable natural, scenic and recreational values which qualify it for Wild and Scenic River protection. The recommended river corridor is located on the Huron National Forest. It inlcudes 6,210 acres, of which 600 acres are privately owned, 800 acres are State of Michign lands, and the remainder are National Forest System lands. The Wild and Scenic River would be administered by the Forest Service.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 2, 1983.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2732, a bill to amend the Wild and Scenic Rivers Act to permit the control of the lamprey eel in the Pere Marquette River and to designate a portion of the Au Sable River Michigan, as a component of the National Wild and Scenic Rivers System, as ordered reported by the Senate Committee on Energy and Natural Resources, August 1, 1984.

This bill amends the Wild and Scenic Rivers Act to allow the Secretary of Agriculture to construct a weir in the Pere Marquette River for the control of the lamprey eel. Based on information from the National Forest Service, it is estimated that installation of the weir will cost approximately $300,000 over the two years beginning with fiscal year 1985. Funding for this project is expected to come from the Great Lakes Fishery Commission, a joint U.S.-Canadian supported entity. In addition, the National Forest Service (NFS) is

expected to spend about $30,000 over the two years for planning and coordination, and the State of Michigan about the same amount over this period for design.

The bill also designates a 23-mile segment of the Au Sable River, Michigan, as a component of the National Wild and Scenic Rivers System. Based on information from the NFS, development and preparation of a master plan for the area are expected to cost the federal government about $100,000 over the five fiscal years beginning in 1985. Operation and maintenance costs of about $25,000 are expected to be incurred annually.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES BLUM
(For Rudolph G. Penner).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2732. The bill is not a regulatory measure in the sense of imposing government-established standards or significant economic responsibilities on private indivuduals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2732 as reported.

EXECUTIVE COMMUNICATIONS

On July 2, 1984, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting fourth executive views on S. 2732. These reports had not been received at the time the report on S. 2732 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2732 as ordered reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

(82 Stat. 906, as amended 16 U.S.C. 1274)

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SEC. 3. (a) The following rivers and land adjacent thereto are hereby designated as components of the national wildlife and scenic rivers system:

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(16) PERE MARQUETTE, MICHIGAN.—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled "Proposed Boundary Location, Pere Marquette Wild and Scenic River,"; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include (a) provision for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific value. Such regulations shall further contain procedure and means which shall be utilized in the enforcement of such development and management plan. For the purpose of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402,000 for development. *Notwithstanding any other provisions of this Act, the installation and operation of facilities or other activities within or outside the boundaries of the Pere Marquette Wild and Scenic River for the control of the lamprey eel shall be permitted subject to such restrictions and conditions as the Secretary of Agriculture may prescribed for the protection of water quality and other values of the river, including the wild and scenic characteristics of the river.*

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(51) Au Sable, Michigan.—The segment of the main stem from the project boundary of the Mio Pond project downstream to the project boundary at Alcona Pond project as generally depicted on a map entitled 'Au Sable River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture.

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